



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I
5 POST OFFICE SQUARE, SUITE 100
BOSTON, MASSACHUSETTS 02109-3912

VIA EMAIL TO KEOLIS AND COUNSEL

Clary Coutu
Director of Environmental Services, Compliance
and Sustainability
Keolis Commuter Services, LLC
470 Atlantic Avenue
Boston, MA 02210

Re: Clean Air Act Reporting Requirement

Dear Ms. Coutu:

The United States Environmental Protection Agency ("EPA"), Region 1, is continuing to investigate whether Keolis Commuter Services, LLC ("Keolis") is complying with federally-enforceable state air regulations approved by EPA pursuant to the Clean Air Act ("CAA"). Specifically, EPA Region 1 continues to examine whether Keolis is complying with the federally-approved Massachusetts diesel locomotive idling regulation set out at 310 Code of Massachusetts Regulations ("CMR") 7.11(2), which is part of the CAA's Massachusetts State Implementation Plan ("SIP") and is federally enforceable by EPA.

Pursuant to information collection authority provided by Section 114(a) of the CAA, 42 U.S.C. § 7414(a), EPA Region 1 previously issued Reporting Requirements to Keolis on February 17, 2017 and July 24, 2019. Keolis responded to EPA's most recent Reporting Requirement by submitting a letter response, with appendices, dated November 8, 2019 ("November 2019 Response").

EPA acknowledges that the COVID-19 pandemic has impacted Keolis's operations and has considered this in determining both the scope of this Reporting Requirement and the timeline for Keolis's responses to it. This Reporting Requirement directs Keolis to provide periodic updates to some of the locomotive idling information previously requested by EPA.

1. No later than July 10, 2020, Keolis must provide its initial responses to the following:
 - a. In its November 2019 Response, Keolis provided copies of locomotive idling exception reports for all locomotive idling incidents of greater than 30 minutes in duration at certain facilities/locations in the MBTA commuter rail system from January 2017 through

August 2019.¹ Provide the same information for these facilities/locations from September 1, 2019 to April 30, 2020, using the same methodology and the same electronic spreadsheet chart format as Keolis used to answer Question No. 7 in its November 2019 Response. As in the November 2019 Responses, include both the “Comment” field and the “Control Measures in place and or Corrective Actions” field. Also, for each reported instance of locomotive idling due to cold weather, include the ambient temperature at the facility/location during the time of the locomotive idling.

- b. Provide a copy of any written draft, final or revised policies, guidance or directives that Keolis has produced or developed at any time from September 1, 2019 to April 30, 2020, regarding commuter locomotive idling due to cold or other severe weather, except for any such policies, guidance or directives that Keolis already provided to answer Question No. 5 in its November 2019 Response. Also provide any reports or analysis that Keolis has produced or developed stemming from any cold weather idling data gathered by Keolis during the winter of 2019-20.
2. By no later than September 30, 2020, Keolis must provide updated responses to Questions 1.a and 1.b above for the four-month period from May 1, 2020 to August 31, 2020.
 3. By no later than January 31, 2021, Keolis must provide updated responses to Questions 1.a and 1.b above for the four-month from September 1, 2020 through December 31, 2020.
 4. By no later than May 31, 2021, Keolis must provide updated responses to Questions 1.a and 1.b above for the four-month period from January 1, 2021 to April 30, 2021, including any reports or analysis that Keolis has produced or developed stemming from cold weather idling data gathered during the winter of 2020-21.

If Keolis does not provide the information required by this Reporting Requirement, EPA may bring a federal enforcement action to order Keolis’s compliance and to assess monetary penalties under Section 113 of the CAA, 42 U.S.C. § 7413. Federal law also establishes criminal penalties for providing false information to EPA. This Reporting Requirement is not subject to Office of Management and Budget review under the Paperwork Reduction Act.

Keolis may assert a business confidentiality claim covering part or all of the required information in the manner described by 40 C.F.R. § 2.203(b). Information covered by such a claim will be disclosed by EPA only to the extent, and by means of the procedures, set forth in 40 CFR Part 2, Subpart B. Note that certain categories of information, such as emissions data, are not properly

¹ The facilities/locations were as follows: BET - Diesel House; BET- Service & Inspection; BET - Valley Track; BET - Yard 14; Bradford; Franklin; Kingston; Middleboro; Needham; Newburyport; Pawtucket; Readville; Rockville; Scituate; South Hampton Service & Inspection; South Hampton Yard; Westminster; and Worcester.

the subject of such a claim. If no such claim accompanies the information when EPA receives it, EPA may make the information available to the public without further notice to Keolis. Be aware that Massachusetts may have different rules and regulations governing the protection of confidential business information.

You are required to submit the above-required information to:

Steven Viggiani
Senior Enforcement Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 1
5 Post Office Square
Suite 100, Mail Code ORC 4-3
Boston, MA 02109-3912
viggiani.steven@epa.gov

and

Tracy Triplett
Assistant Attorney General
Environmental Protection Division
Office of the Massachusetts Attorney General
One Ashburton Place
Boston, MA 02108-1598
tracy.triplett@state.ma.us

If you have any questions about this Reporting Requirement or would like to discuss its scope or response deadline, please have your legal counsel contact Steven Viggiani, Senior Enforcement Counsel, at (617) 918-1729.

Sincerely,

Karen McGuire, Director
Enforcement and Compliance Assurance Division
U.S. EPA Region 1

cc: Tracy Triplett, MA AGO
Christine Kirby, MassDEP
Steve Richmond, Beveridge & Diamond